Notes on the case of Sandra, the non-human subject of rights

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Abstract

Depending on religion or legal philosophy, an animal may be considered a "non-human person" whose welfare rights should be acknowledged and protected by people. Law enforcement authorities and courts address cases of treatment of animals by people, including shared by them natural habitat – "Mother Earth", to use the term of the 2030 United Nations Sustainable Development Agenda. This chapter discusses the philosophical and legal underpinnings for welfare rights of animals, prompted by the case of the retired orangutan Sandra. She became the first non-human subject of such rights, granted by a ground-breaking Argentinian jurisprudence with the first-ever court-backed her transfer to an animal sanctuary in the United States, where her relative welfare and freedom has been secured.

Keywords

Animal rights, Non-human subject, Trialism

1 Introduction

Since the time of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Caracas, Venezuela, 1980), there has been a growing recognition of the postulate that the concept of sustainable development should be reinterpreted. The unanimously adopted Caracas Declaration recognized inter alia that "It is…essential to review the traditional crime prevention strategies based exclusively on legal criteria." It also stated that "The prevention of crime and penal justice should be considered in the context of economic development, of political systems, of social and cultural values and of social change" (A/RES/35/71, Annex, paras. 1 & 2).

The perspective of the Sixth United Nations Congress radically moved away from the formalism espoused by legal theorists Hans Kelsen and John Austin. The perspective emerged instead from integrative or integral approaches linked to different group contexts in a setting of fluid historical transformation. Drawing on this comprehensive outlook, in 2014, I developed a legal doctrine for a sentence dictated by the Second Chamber of the Cassation Court of the Argentine Republic – which I shared with the other judges of the Second

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Chamber, Dr. Angela Ledesma and Alejandro Slokar – and we discuss here some notes on the particular case of Sandra, a non-human subject.[2]

2 Roman Law and the Person

A renowned scholar of Roman law, Eugene Petit, reminds us that the word "persona" originally indicated the mask worn by Roman actors in theater performances. These masks allowed them to amplify their voices (*pre-sonare*)(Eugene 1913, paras. 62 & 63). This original meaning was broadened to designate a being with rights and obligations. The first differentiation was one of free persons in contrast to slaves.

More than two thousand years later, the broadening of the "persona" in law comprises the new subjects of law, among them animals – our eternal companions in this life, recognizing the limits that impede their full legitimacy. That original meaning "does not mean to equalize all living beings and take from the human that special value that implies at the same time, a tremendous responsibility. It also does not suppose a "divinizing" of the earth that would deprive us of the call to collaborate with it and protect its fragility. These conceptions will end up creating new imbalances to escape the reality that questions us." (Carta Enciclica Laudato Si 2015, para. 90).

In this story of two thousand years, the protection of fundamental legal values of the person was broadened in scope to eliminate, foremost, the barriers of slavery affecting hundreds of millions of people who live today with fewer limits to their freedom. Discrimination and hate persist in the treatment of social groups marginalized by gender, race, national identity, language and religion.

In this historical global dynamic, the new legislation (juridical normativism) expands when faced with the pressure of unprecedented cultural, scientific and technological changes, including the acute phenomena of globalization.

With this "evolution-revolution", humans are learning that the protection of human life is synonymous with the protection of the earth – including its waters and the non-human life that is at risk of extinction at an alarming scale. The fight for the reform of the law is also tied to the effort to reach social equality in all countries. As we shall see many times in this article, the aforementioned Vatican *Carta Enciclica Laudato Si* is fundamental for this legal recognition.

3 The Story of Sandra

The story of Sandra begins in 2014 in Buenos Aires (Argentina), when a non-governmental organization (NGO) called the Association of Authorities and Lawyers for the Rights of Animals, petitioned for a *habeas corpus* for an orangutan named Sandra which lived in the

[2] Before the revision of this article and after having presented the original work at the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (2015), Judge Elena Libertori in the *Contencioso Administrativo y Tributario* of the City of Buenos Aires, accepted the *habeas corpus* advanced by the Association of Officers and Lawyers for the Rights of Animals (AFADA) and the Constitutional Lawyer Andrés Gil Dominguez, in order to recognize the right of the orangutan named Sandra (in captivity in the Buenos Aires Zoo) to not be considered an object or thing susceptible to property, and the right not to suffer physical or psychological damage. The examination of this case exceeds the reach of this article.

Buenos Aries City Zoo. The NGO wished to have the orangutan relocate to a sanctuary called the "*Santuario de Sorocaba*" where it could have greater freedom. My Federal Chamber in the Cassation Court where my colleagues Dr. Angela Ledesma and Dr. Alejandro Slokar also voted, gave the right to act jurisdictionally to the misdemeanor of the City of Buenos Aires, which had already intervened in this case.

The resolution said succinctly that Sandra was a non-human subject of rights (*sujeto de derecho no humano*) and opened up the legal protection to include primates.[3] The news of this resolution was widely divulged in Argentina and the world.[4] In 2019, nearly five years later, the 33-year old Sandra left her site in the zoo, which closed in 2016 following reports of animal cruelty. She arrived at the USA to become the new resident of the Center for Great Apes in Florida, a sanctuary much better suited to her needs. Judge Elena Liberatori, who ruled over the landmark decision, said Sandra will now be able to spend the rest of her life "in a more dignified situation" (Cockroft 2019).

The concept of subject of rights, according to the scholar in his quote of *Legaz Lacambre*, is based on the dignity of the person, distinguishing it from all that is an object. The person is treated with dignity when he or she is allowed to operate with freedom (Legaz y Lacambra 1976, p. 17-22). In the words of *Legaz*, the subjective law is a legal situation. The action is the way of validating a situation (Legaz y Lacambra 1951, p. 620).

In a similar vein, the so-called persons would not exist without a physical platform and specifically a biological and neural network – no one can be called person if they are not also a bio-neural organism. Not all organic bodies are or can become persons, but they would not exist without the former. Moreover, they could someday become organic bodies that do not strictly coincide with humans. The philosopher Ferrater Mora puts forth a distinction historically made in philosophy: an organic body that has a complex neural network structure can be the platform of what we call person, if he or she makes use of an articulate language. The language does not necessarily have to be a natural or common type of human language. This agent must nevertheless have advanced cognitive abilities and be capable of taking on responsibility for her or his own actions. The person is thus not a being given from the outset, but constitutes herself or himself on the basis of necessary and sufficient bio-neural network conditions, all the while evolving in a natural and cultural context.

Furthermore, we often perceive, particularly when faced with moral conflicts, that one can be more or less of a person (Ferrater Mora 1985, p. 129). With relation to the non-human

[3] The Orangutan Sandra Case came to the competence of the Court of Cassation upon the brief filed bya non-governmental organization "The Association of Officers and Lawyers for Animal Rights' against the decision rendered by the Appeals Chamber which upheld the denial of the petition of a writ of *habeas corpus* to protect the orangutan Sandra. On 18 December 2014, our chamber in the Court of Cassation ruled that according to a dynamic and not static legal interpretation, it was imperative to acknowledge the animal as a subject of law since 'non-human subjects' (i.e. animals) are still right holders. Therefore, since the case was already under investigation by the misdemeanor court, we ruled to transfer the case to the misdemeanor jurisdiction of the City of Buenos Aires (case N°CCC68831/2014/CFCI, Register N° 2603/14, free translation).

[4]Court in Argentina grants rights to Orangutan, http//www.bbc.com/news/world-latin-america 30571577. Sandra-the-orangutan-limited-human-rights, http//www.telegraph.co.uk/news/world/Americas Sandra the Orangutan inside Argentina Zoo granted human rights in landmark ruling, http//www.independent.co.uk 9940202.html *Orangutan Sandra habeas consigue libertad*, http//www.larazon.com 0_2184981580 html Habeas corpus conceded to Orangutan of Buenos Aires City Zoo, La Nación.com.ar 1754353 Gorilla Ethic.

subject, we do not oppose subject to object. Both inhabit the world, in the 'Dasein' of Martin Heidegger, or in the "*mi vivir*" of José Ortega y Gasset, or in the "*être-pour-soi*" of Jean-Paul Sartre (Ibidem).

Similarly, the distinguished legal philosopher of the University of Mérida (Mexico) B. Mantilla Pineda argues, that "Just as chlorophyll is a step between the inorganic and organic, the connection between humans and culture is also such a step" (Mantilla Pineda 1947, p. 453). Mantilla Pineda also points out that the word person is not a synonym of individual, while the philosopher Ferrater Mora believes that the person is the oneness of spiritual acts (Ibidem).

At present, humans have never before come across such a crossroads in their history, where their way of life in the most advanced societies is destroying the planet, placing at risk not only human life but also the life of all species, added to the adverse effects of climate change and contaminated water resources. Nevertheless, through the values of solidarity and care for the planet, humans are extending greater legal protection to species such as different species of primates or cetacean such as dolphins. These need to be protected from the start as having rights of personhood – not in the wholeness of a legal protection but rather in the most effective means for their care and survival. It is not a question of slapping on protection that is not substantial, when we are facing the dilapidation of the planet, and this calamity continues to be tolerated by the legislation of countries. The future reform of the Argentine Civil Code should therefore include formulations allowing for greater integral protection of some of the most evolved species.

We know at present through important scientific works of contemporary etiology and contributions of legal philosophy and religious philosophy, that some major religions granted animals both protection and a privileged status. Through creativity and legal innovation at a national and international level, a broadening of the protection of animals has been fostered through graduate programs in International Penal Law of Animals as well as through organizations protecting the environment and the rights of non-human animals.

This development of greater equality has relied on scientific research on the sentient, cognitive and behavioral structures of primates such as bonobos, in research centers of great scientific advancement, as well as through the contributions of academics and lawyers in exemplary legislation and academic bibliography.

4 Zen Buddhism and Christianity: Dogen and Saint Francis

The unity of all existence is exemplified in both Zen Buddhism and Christianity. A distinguished friend, Celestino Cavagna, wrote an article comparing the works of Saint Frances of Assisi (1181-1228) and Zen Master Dōgen (1200-1253) with a master ("Roshi") of Zen Buddhism Philip Kapleau. Cavagna writes:

"Animals in Buddhism are integral to the life cycle as humans themselves." "The high status accorded animals in Buddhism is attested to as well in Jataka stories, parables about the Buddha's previous animal and human existences" (Cavagna in Kapleau 2001, p. 21). He continues by saying: "What strikes us most directly about the Jatakas is the focus on compassion, the self-sacrifice that flows from compassion, and identification of oneself with all living and suffering beings." Likewise: "the Jakarta tales are dramatic presentations of the

most fundamental aspects of the Buddhist vision. They express the essential unity of all life" (Ibidem, p. 5). In the same way, "All things, animate and inanimate, are temporary transformations of the one Buddha – or essential Mind-names for the ever 'it' that cannot be named, the substratum of Emptiness (perfection) underlying all existences" (Ibidem, p. 6).

Cavagna concludes that some of the works of Buddhism and Christianity put forward an essential spirit of humans interconnected with all living beings including the sun and moon. He refers to Dogen, who in his work *Kana Shōbōgenzō* (正法眼蔵, lit. "Treasury of the True Dharma Eye") states: "I know with certainty that my heart is in the mountains, the river, the earth, I am sun, moon and star" (Ibidem, p. 4).

Cavagna reveals that when he read these words, he recalled the words of St. Francis singing about God's creatures. In the hymn, Francis famously calls the Sun, Brother and the Sister, Moon. Cavagna writes:

"He (St. Francis) does not say in his expression that he is one with the sun and with the moon. Had he said this, it would not be meaningless in the philosophy and mentality of the West. St. Francis called all creatures Brother and Sister, synthesizing a spiritual union with them although he felt his being as one thing that lived in intimate communion with nature and all creatures of the universe" (Ibidem, p. 63).

This is for Cavagna, the representation of the love of the universe: "It is not coincidental that in that hymn where St. Francis praises God for all creatures", he says: "Praise be you, my Lord, for those who give pardon for your love." Everything is interconnected. That is why concern for the environment and its connection with sincere love for human beings, is needed along with commitment when confronting the problems of society" (Ibidem, p. 7).

Cavagna explains that "when the heart is sufficiently open to a universal communion, no one and nothing is excluded from that fraternity. As a result, it is also true that indifference or cruelty towards the creatures of the world always translates into the same treatment towards other human beings. The heart is only one, and the same misery that leads to abusing an animal also manifests in the relationship of one human with another. All viciousness with any creature is "contrary to human dignity" (Ibidem, p. 15).

Let us note that the words of St. Francis are based on the book of Genesis, when God tells Noah and his children (Bible, Genesis 9, 8-15): "Behold, I now establish my Covenant with you and your descendants after you, and with every living creature that was with you – the birds, the livestock, and every beast of the earth – every living being that came out of the ark."

Cavagna (2007, p. 21) acknowledges that although Dōgen and St. Francis are part of different worlds and cultures, they begin from the same concept and their words are similar to the position of the Buddhist meditation known as Sartori. For Cavagna, what Sartori suggests is the clear understanding of everything. This is generally translated as "*iluminación*" in Spanish or "enlightenment" in English (Ibidem, 16).

Similarly, we can mention that in Ancient Egypt there were no dichotomies between religion and science, church and state, clergy and lay people. "The gods were everywhere. The king was the essential priest and all the acts were judged against fundamental divine criteria. Gods,

men, animals, plants and physical phenomena belonged to the same great order. There were no different dimensions of existence" (Rundle 1960, p. 26).

4 The Unity of Humans, Nature and the Universe of Native Cultures from the Americas

Three decades ago, in one of my books entitled "*Social Structure and Criminology*", published by the University of Zulia, I observed how the original civilizations of the Americas, facing the arrival of the Spanish, perceived themselves as interconnected with the landscape, nature and even society (David 1960).

I would like to highlight a central concern of human rights in countries of Latin America, which I have discussed in my writings in relation to the law and juridical values. Separation and conflict still exist between norms of Spanish colonial law formulated in the law of Cervantes and his heirs, and on the other hand, the language, values and traditions of original Native Americans of the so-called America named after Américo Vespucci.

The law is language, and this language is the dwelling place, the shelter of all humans within society. In language we find the word, the life, the feelings and the birth of the world. When legislation imposes rights and obligations in a language that is not understood and does not live because it is not its own language, as in the example of native American native societies that were colonized, this legislation leaves whole nations unprotected from a debilitating anomic condition marked by spiritual, social, political and juridical chaos. One cannot know a right imposed by the dominant culture if one doesn't know its phonetic and semantic meanings, its rituals and customs.

Today, when the word is increasingly substituted by web icons, perhaps the ideal of Pierce, the philosopher of North American pragmatism, could be the right opportunity to incorporate official legal language such as the expressions and meanings most alive in Native American law. Some countries have already done this, such as in Guatemala or other countries of Central and South America. But one must continue invigorating this understanding of inclusion; this would help cultures centered on legal norms and litigious states, to move towards instances of meditation and accords that strengthen peace in the community.

A paradigmatic example of this affirmation is the culture of the Mayans. The civilization has been described as upholding "the protection of the neighbor, animals, plants, and whole mountains is the task of men – formerly artisans and guilds - but fundamentally of supernatural beings that must be respected and remembered to be able to live in harmony" (Dary 1997, pp. 299-300).

Likewise, this vision of the cosmos is based on the belief that "no other species is superior to another. We don't say that we exist, we say that we co-exist, that we cohabitate. We are complementary elements despite being different; we are always within a network of relations comparable to a spider's web of exchanges and interdependent relationships. Nothing remains isolated from biological diversity, of plants, animals and human beings; it is a unity within the diversity of all lives in harmony, it is a scene where all species find their relation to water, air, earth and all that surrounds them" (Defensoría Indígena Wajxaqib'noj 2003, p. 151).

This vision is also communicated in the poems of distinguished writers of Guatemala: “In the voices/of old trees/I recognize those of my grandparents/watchmen of centuries/its dream is in the roots” (Ak’Abal 2001, p. 146).

The Native cultures in Central and South America also believe in and affirm the interdependence of all living beings. For reasons of brevity we cannot discuss this in greater depth here. We can nevertheless mention the Pueblos of New Mexico and Arizona, in particular the Zunis, the Hopis and the Taos Pueblos. For them “in the Universe of the Pueblos, there is harmony with everything. For the Zunis, the world is animated. The wind, trees and clouds not only have personhood, but also elements such as human dwellings, their clothes; everything is alive and sentient” (Hamilton 1964, pp. 250-251).

The psychiatrist and writer Carl Jung, in 1924, at the age of 49, visited the Taos Pueblo in Montaña Lagos in Taos, New Mexico (USA). The head of the Taos Pueblo told him:

“The white appear so cruel. Their lips are thin, their hands are sharp, their faces are full of crevices and distorted by wrinkles. Their eyes have the expression of looking surprised; they are always searching for something. What are they looking for? The whites always want something; they are always uncomfortable and restless. We don’t know what they want. We don’t understand. We think they’re crazy. Everyone says they think with their head.” Surprised by the answer, Jung asked “With what do you think with?” The head of the Pueblo pointed to his heart (Rosen 1996, p. 248).

The original cultures of North America have been ravaged by the dominant white culture, causing calamities such as high rates of suicide and alcoholism among Native Americans. These world views allow us to replace ‘thing’ with ‘subject of rights’ when referring to the more evolved animals in danger of extinction (e.g. primates such as bonobos, chimpanzees and orangutans). Following this line of analysis, we firmly uphold the replacement of the concept of ‘thing’ with the concept of ‘subject with rights’, to allude to those animals that are more evolved and in danger of extinction.

A greater and more effective protection of non-human animals is possible when these offer the characteristics of bio-neural networks and a marked sociability similar to human life. The word “thing” trivializes the more evolved life of primates; it goes along with the great lack of protection of animals in some ancient civilizations. This does not imply that the passion for destruction of humans is tempered or placed in parentheses, or that a linguistic, semantic or legal term is slapped on without corresponding environmental change. For our conception of law as behavior, the only valid changes are the actions of concrete humans and their communities. We thus establish strong bonds between the I then *you* and *we* that also apply to the most evolved animal life.

5 Ethology

Many decades ago, Karl Jaspers discussed in his chapter entitled “Philosophy and Science”, that nothing is indifferent to science (Jaspers 1953, pp. 136-148). The smallest and ugliest, the furthest and strangest, that which exists in any place – it already is important to science solely because it exists. The sciences have become absolutely universal. Nothing subtracts from them. Nothing must be hidden or silenced or left as a mystery. The modern sciences are in principle, inconclusive because they ceaselessly advance, while ancient science on the

other hand was complete unto itself, without realizing the meaning that this effective evolution suggested, although always near completion. The modern world is thus not a closed system, in contrast to the cosmic vision of the ancient Greeks.

Alternatively, the modern sciences do not value greatly the possibilities of thinking. For them, thinking is only given credit in certain concrete knowledge when it is founded on scientific discoveries, and by this means, continually modified. Modern science is inspired by the ethos of wanting to know with guarantees on the basis of free research and critical thinking. The purity of science demands the purity of philosophy. “Philosophy can call itself a science in so far as the sciences are its building blocks. Scientific truth is ‘one for all’, philosophical truth is multiple” (Jaspers 1953, p. 140).

An eminent ethologist, Frans de Wall, in his work “The Bonobo and the Atheist”, traces a continuity of morality extending between bonobo primates and humans (De Waal 2013). Both species share emotions such as empathy, sympathy, gratitude – loving feelings inspired by fraternity and solidarity. Ethical principles do not emerge from the skies or by drawing on mere reasoning but instead persist over centuries in values of all living beings.

This moral continuity has been well documented in thousands of experimental observations throughout human history. In chapter 10, De Waal cites for example, the solidarity shared among bonobos when they are hurt or become ill. Loving feelings (such as those connected to the neurotransmitter oxytocin), and the instinctual perception of the species work together, including during the moments when they are in contact with humans. De Wall relates the story of a bonobo mother that climbs a tree to feed her disabled daughter and the rest of the group follows suit. Bonobos are happy when a new infant is born, and the other female bonobos comfort the mother by scratching her skin and shrieking. We can summarize this explosion of related research as “the great psychological fiesta”.

De Wall also points out that since the time of Aristotle, humans are recognized exclusively as rational animals, and this concept has denied animals from being conceived as similar to humans in their use of reason. De Waal tells us:

“The Moral Law is not imposed from above or derived well from well-reasoned principles; rather it arises from ingrained values that have been there since the beginning of time” (De Waal 2013, p. 150).

Steven Wise, an eminent legal scholar and animal rights activist, argues that “there is no reason for a corporation a ship, a society or a legal incompetent to have juridical identity and not a chimpanzee. In New Zealand, even a river has juridical personhood. In India, a deity and a mosque. Animals as identities must be protected with fundamental rights. It is a central question of the inalienable value of freedom and equality for conscious and autonomous beings. And the reason is the same for what we have learned to not exploit or mistreat other human beings (Wise 2015).

6 Man - Animal of Realities

In line with this reasoning, we can recall the theologist Xavier Zubirí, who already in the last century defined man as “an animal of realities”. Within his virtue, the character of reality of man is a defining moment of his action: man acts in real terms, because it is “his” reality.

Here lies the formal reason of this mode of reality that is his own - to be a person. As a form of reality, the animal of realities, is personal animal. Thus, one thing is clear: human reality, to the degree that it belongs to itself, is constituted as itself "in the face of all that is real". In this sense, as a reality, human reality is "ab-solute", unconstrained from another real condition. It is however a mode that is relative – it is relatively absolute (Zubiri 1974, p. 12).

For the philosopher Xavier Zubirí, what gives genuine meaning to the word intelligence in reference to humans, is a second term: sentient. The intelligence of humans is "sentient". It is that same intelligence in so far as it is sentient. This is why one can invert the terms and define the radical habit of the human as intelligent sentient or intelligent sensitivity. This does not involve that in humans there is a type of intellectual function mounted on a sensitive function. The intellect and sensitivity are two aspects of a single reality. The reducible and absolute difference between animals and humans lies here: Humans, because of a sensitive intelligence, sees things not as stimuli but rather realities. The version of reality is valid for external things and the same human beings. For Zubirí, according to the philosopher Javier Conde, "man is not only sentient but knows he is sentient", and this could be the distinctive feature of the sentient animal (Conde 1953, p. 101). Zubirí also unifies emotion, the sentient, in animals and humans with the reservations this may introduce. "There is a coexistence just with others in so far as they are realities. It is what is missing from domestic or domesticated animals: these animals do not live together with humans as far as this is reality, but humans incorporate them into their lives, to the extent that they are real. In short, the coexistence of a human with other humans in so far as they are realities, is what formally constitutes human society (Zubiri 1984, p. 65-66).

The Holy Father Francis also reveals a vision of man and creation conceptualized in his *Carta Enciclica Laudato Si* made known on the 24th of May 2015 after the original presentation of this work during the Thirteenth United Nations Congress on Crime Prevention and Criminal Justice (Doha, Qatar). Pope Francis says:

"All of nature, as well as manifesting God is the place of His presence. In each living creature there is a life-giving Spirit that calls us into a relationship with it. The discovery of that presence fosters in us the development of 'ecological virtues'. But when we say this, let us not forget that there is also an infinite distance, that the things of this world do not possess the fullness of God. On the other hand, we would not be something good for the creatures, because we would not recognize their proper and true place, and we would end up demanding unduly what in their smallness they cannot give" (Holy Father Francis, 2015, para. 88).

The Spanish philosopher Juan D. García Baca, in his work "Introduction to Philosophizing" (1939, pp. 8-15) asserts: "The Aristotelian definition of man '*zoon, logon, éjon'*, an animal that has logos, does not admit the classic translation of 'rational animal', if one does not exactly understand the force of the Greek *logos*."

"In the study on questioning, I have given the following interpretation: man is the living amplified voice of things."

"In contrast and faced with things one cannot know through words, in the universe there is an animal with a cosmic mission added to the essence of things, through which it says (logos)

in a high and melodious voice, what is otherwise silent. The aphonia entity of the world remains cured by means of the metaphysical phonetics of man."

To be rational is certainly the characteristic of humans, but it is not an exclusive nor even a primary property of them: rational simply designates its cosmic function, its destiny in the world: to speak in the service of things, the metaphysical amplified voice of the cosmos. Nothing is thus more distant, more contrary to this sense of reason, of cogitation united without dissolution to the word and things in the sense of the *cogitation* (cogent) in Descartes or Leibniz (Ibidem).

In this line of Aristotelian thought we can affirm that: "Theoretical understanding exhibits another perfection"; "Intelligence can think itself occupying the place of the intelligible; it thus becomes intelligible to itself in the act of understanding its object. Intelligence and intelligible are the same thing."

With affirmations and precision, Aristotle defines self-awareness as the reflexive attitude of intelligence, the self-consciousness of the certainty of one's own existence.

"Who perceives that he sees, and who hears perceives that he hears, and who walks perceives that he walks, and analogously, with other acts there is something (in us) that perceives that we carry out acts, so that we perceive perceiving and think thinking. Now the fact that we perceive, and think is that we exist, since existing is to feel and think."

"And since every act of understanding ends in contemplation, it produces pleasure. Thanks to this we find gratifying: vigil, feeling, thinking, and through them hope and remembering" (De Azcarate quoted after Pro 1971, p. 125).

Christian theology echoes Aristotle when it is argued that "The nature that surrounds us, to which we belong, proclaims the existence of a highly noble Creator who has imbued us with mind and discursive reasoning. By means of which we prefer: the living to the inanimate, the being with sensitivity to the insensitive one, the intelligent beings to the irrational ones, the immortal to the transient, the powerful to the impotent, justice to injustice, the beautiful to deformed, the immutable to transitory, good to evil, the incorruptible to the corruptible, the immaterial to the corporeal, happiness to misery" (Przywara 1984, p. 164).

From another perspective, but with similar meaning, Oliver Sacks argues that: "Humans share much with other animals – the basic needs of food and drink or sleep for example – but there are additional mental and emotional needs and desires which are perhaps unique to us. To live on a day-to-day basis is insufficient for human beings; we need to transcend, transport, escape; we need meaning, understanding and explanation; we need to see overall patterns in our lives. We need hope, the sense of a future. And we need freedom (or at least the illusion of freedom) to get beyond ourselves, whether with telescopes and microscopes and our ever-burgeoning technology or in states of mind which allow us to travel to other worlds, to transcend our immediate surroundings. We need detachment of this sort as much as we need engagement in our lives" (Sacks 2012, p. 90).

It is necessary to highlight that both Adam Smith and later Charles Darwin, believed that the normative capacity for self-government is essential in the development of morality, since it

is part of the understanding described by Darwin as "this brief but imperious word, so full of meaning: *duty*" (De Waal 2007, para. 150).

"Darwin theorized that the capacity for normative self-government arose from the difference between how our social instincts and our appetites are affected" (Ibidem).

Meanwhile, "in an essay entitled Conjectures on the Beginnings of the History of Humanity", Kant theorized the form of self-consciousness that subsists under our autonomy could also play a role in the explanation of some other distinctively human features, including culture, romantic love, and the capacity for self-interested action. Other philosophers have observed the interconnection between this form of self-consciousness and the capacity for language (Ibidem).

Underscoring a conceptualization of peace, Erich Fromm tells us that "the prophetic concept of peace transcends the sphere of human relations; the harmony is a harmony between man and nature. Peace between man and nature is harmony between man and nature. Man is not then threatened by nature and ceases his attempts to dominate it; man becomes natural and nature becomes humanized. Both cease to be opposites and become one thing. Man is in the natural world as in his home, and nature becomes part of the human world; this is peace in the prophetic sense (the Hebrew word "*Shalom*", for example can be translated as "plenitude", and expresses the same orientation)(Fromm 1981, p. 150).

7 Norms and Values in Ancient Greece

We live in a time and era where the soil is crushed under our feet, where the answers of today soon become incongruent and far from the reality constructed in the manner of a continually turning kaleidoscope.

In this era of uncertainty, insecurity and anxiety, we have only one anchor: the existence of a 'we' characterized by solidarity, with a 'you' that transcends the practice of individualism, and is guided by values of love, fraternity, charity and solidarity - all adding up to the search for justice and equality. From Ancient Greece onwards, we see a clear relationship between law as system of legislation and fundamental values. Legislation and the establishment of a political order, according to Plato, are the most perfect means of the world to approximate virtue.

Plato therefore avoided decisively deducing laws from the existing constitution, as these laws often manifest a concrete relationship of political rule and subjection. Plato does not admit this class legislation. He insists that he would not recognize them as laws, in the meaning of a just law, none which have been adopted for the welfare of the community. A legislation that would only be useful to the interests of the party in power is for Plato a mere question of convenience and detracts from its quality as a true law.

In these reflections that allude to natural law, Plato finds a basis for affirming that the government is only a servant of the law. Only in a state where the law governs those who govern (laws 715) – only a state in which the government is subject to laws, can be expected to guarantee the good which the gods have destined for genuine communities, that is to say, guaranteeing the true happiness of citizens (Friedrich 1964, paras. 35-37). "Because the laws

are the means by which we assure not only that men live, but also live well (in Zen) and become as virtuous as possible."

These reflections are also discussed in the works of Saint Augustine, who speaks of the community of charity or love, in contrast to the legal community. And he also points out that the State today (el regnum in its concepts), if justice is missing from it, is similar to a large band of thieves (Friedrich 1964, para. 60).

8 The Philosophy of Law, Trialism and Animals

Trialism is a theoretical position of distinguished jurists and philosophers, who have passed it down through their disciples to this day. Surpassing the positivist legal theory that came before it, trialism has paid special attention to the values and factual circumstances of law.

The legal philosopher of the sociology of law, Jerome Hall, argues that "in regards to the integration of norm, value and fact, in the root of human behavior, both object and subject are tied to organic planes, on the one hand, and on the other, the major structures, collectives, specific subsystems of interaction, and the empirical and cultural structure" (David 1970, p. 91).

In summary, "the juridical norm is only one norm: the social norm, the moral norm, the religious norm, the ethical norm – all these can have the same or even greater relevance. What matters is the measure of their influence on the behavior of society. The fact (the behavior) is the reality of law, and it is not comprised in the juridical norm: there is a coexistence among formal, informal and written law. These may be more relevant, internalized, and effective than the former that is externalized in social behavior (Saucedo, 2001, p. 802)

The trialism introduced by the philosopher Miguel Herrera Figueroa consisted of a triad of interconnected dimensions: vital-endotimic (vital-*endotímica*), normative-cognoscitive (normative-cognoscitiva) and spiritual-valuational (spiritual-*valorativa*). This is comparable to Hall's norm, value and fact, and is found in the prolific works of Miguel Reale, Luis Recasens Siches, Werner Goldschmitt, Michele Pallotini and many others.

From this perspective, the great mutations of the three pillars of law make more plausible the extension of protective legislation to include animals and the planet, both at the local and international level. These norms are rooted in scientific evidence, values of dignity of treatment for humans and animals. It translates to a broader vision of cooperation, solidarity, equity and equality that adds up to more justice.

The Convention on Biological Diversity (1760 UNTS 79) in art. 8 establishes, that each party to the contract in so far as possible and subsequently "adapted to its national legislation, will respect, preserve and maintain the knowledge, innovation and practices of indigenous and local communities that hold viscerally traditional styles of biological diversity and will endorse its broader application, with the approval and participation of those who have this

knowledge, innovation and practices and will foster the benefits derived from the use of equitably shared knowledge, innovation and practices."[5]

9 The Advancement of Interdisciplinary Studies Centered on the Legal Protection of Animals

The higher learning studies of animals is an important advancement assisting in their legal protection at a global level.

In the United States, at the University of Oregon, through the Center for Animal Studies, offers a Master's in Animals with a curricula including seminars and courses such as: Advanced Seminar in Animal Rights, Animal Rights and Jurisprudence, Domestic Animals, International Comparative Law, Rights of Animals, Law of Animals: Political Influences of Legislation, Jurisprudence, Lobby Pressures and Litigation.

In Japan, the Primate Research Institute of the University of Kyoto carries out rigorous scientific research in the area of advancement of the law.

Meanwhile in Zurich, in the Center of Animal Law, has established a focal point for studies of animal rights (TIR – *Stiftung für das Tier im Recht*).

At present, there is extensive bibliography which is available also on the web site of the University of Idaho, United States.

We can also mention the research journal *Global Journal of Animal Law*, of the Abo Akademy University, Department of Law, in Finland.[6]

10 The Legal Protection of the Environment at a Regional and Global Level

In contrast to conventional criminology, we have developed a new criminology often referred to as "Green Criminology". Similarly, the contributions of the United Nations to "Blue Criminology" (Redo 2012) have emerged from the original section of Social Defense, directed by Manuel López Rey y Arrojo, an acclaimed Criminologist who I honored in a tribute in 1985 (David 1985). The notion of justice which originally included only humans is being transformed to include the rights animals and those of the environment. Some even propose that since the notion of genocide is the capital crime of conventional criminology, a globalized criminology might be taken into account as an "Ecocide". This leads us to a philosophy centered on the preservation of ecosystems, on the value of living and non-living entities, as these are synonymous with the viability of human life.[7]

[5] See also Convention on International Trade in Endangered Species of Wild Fauna and Flora (993 UNTS 243) and resolutions of the United Nations Economic and Social Council (ECOSOC) 2001/12, 2003/27, 2005/25 2001/36; also the United Nations Convention against Transnational Organized Crime (2225 UNTS 209). All these legal instruments are accessible via the United Nations e-address: http://www.un.org.

[6] Primate Research Institute, Kyoto University, Japan. See Guidelines for Care and Use of nose Human Primates Ch.5, Consideration of the Behavior and Psychological Condition of NHP, June 2010.

[7] In this sense, see R. White (2008), The Criminalization of Environmental Harm, Criminal Justice Matters, (London: London Center for Justice Studies, King's College: London).

The way has been paved for distinguishing better or worse environmental policies and also for detecting central themes of measures that harm ecosystems.

Ever since the 1970s, the legal protection of the environment has enjoyed a privileged status in multilateral juridical instruments. These have nonetheless multilateral environmental in an integrated manner, the problem of environmental crime.[8]

For example, the Montreal Protocol (A/RES/49/114) specifically takes up the problem of the substances that produce a loss of atmospheric ozone; the Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal ("the Basel Convention", 1673 UNTS 126) meanwhile seeks to prevent the illegal trade of toxic substances.

The environment problems of illegal deforestation and illegal fishing are even more problematic. No agreement exists on forests (there is only a series of agreements on tropical wood). To all of this we can add the diversity of juridical perspectives. At present, these center on environmental crime rooted in concepts of the protection and conservation of the environment. These perspectives originated in 1972 in the Stockholm Conference of the United Nations, where the program of the United Nations for the Environment (UNEP) was established. The 1973 Declaration of Stockholm (A/CONF.48/14/Rev.1) also developed fundamental legal concepts of international environmental law. Its preamble affirms the need to protect nature because it is the environment of humans and the right to life of humans in their most fundamental right. In other words, the protection of nature in all of its manifestations is essential and synonymous with the viability of human life.

The Declaration of Stockholm also interrelates two challenges: the protection of the environment and economic development. In this way the environment becomes essential for humanity, with the emphasis placed on the future generations of humanity. The "Ramsar" Convention on Wetlands of International Importance (996 UNTS 245) of the same period, foreshadows the concept of sustainable development.

The first type of measure to protect the environment consists of establishing systems that monitor, identify and investigate issues of environmental conservation. An example of this is the Convention of Migratory Species of Wild Animals (1651 UNTS 333). Other measures are in their original place, such as the Convention on Biological Diversity (1760 UNTS 79), which focuses on the conservation of ecosystems and natural environments, and the maintenance and recovery of viable species in their natural settings. A clear example of this is the establishment of protected areas and natural reserves. The Ramsar Convention locates protected areas and includes at least one area of humid land.

For the Convention on Biological Diversity, the sustainable use and the administration of natural resources is essential to protecting environmental development. The protection

[8] See D. Faber. (2009). Capitalizing on Environmental Crime: A case study of Polluter-Industrial Complex in the Age of Globalization, ch 5 in K. and I. H.Marshall, Ecocrimes and Justice, Essays on Environmental Crime, UNICRI:Turin.

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bestowed by laws against environmental crime, must also be sustained with commercial law acting as a mode of illegal transaction.

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 993 UNTS 243) regulates the international trade of animal and plant species listed in the appendix of this international agreement. The trade is regulated according to the level of danger faced by the species that is threatened with loss or extinction.

With respect to the 3% of the species listed in the first Appendix, the trade of these species is highly restricted. The other 97% of the species listed interrelate in a viable manner the right to common conservation and the sustainability of international trade. As a result of the CITES agreement, there are new measures for the protection of the environment, but the reach of CITES is limited when faced with transnational organized crime.

Used as last resort by countries, penal law has been the privileged arena for certain international conventions. The Basel Convention, for example, along with other regional agreements such as the Council of Europe, that in 1988 adopted the Convention on the Protection of the Environment through Criminal Law (COE Conventions; ETS172), were not implemented for lack of sufficient ratification by member states. This situation did not impede the Council of Europe from adopting in the year 2008, the Directive on the Protection of the Environment through Criminal Law. All of these international agreements aim to make member states work together in combatting environmental crimes and transnational organized crime at a regional and global level.

Finally, the international community has endorsed the Regional Plan of Action for the conservation of Gorillas of the Low Western Lands of Africa and the Chimpanzees of the Central Zone of Africa spanning the decade between 2015 and 2025. In this plan of action, the areas where the gorillas and chimpanzees live are identified; the majority of gorillas and a third of the chimpanzees live in the tropical jungle of Central Africa. The population of large animals in this region has suffered a dramatic decline since the 1960s, largely owing to three factors; hunting, illness and loss of habitat (IUCN 2015).

11 Some Foreign Precedents

In 2016, the French Parliament passed a law recognizing animals as “living and sensitive beings”[9]. Before this they were considered a mere property by civil codes dating from Napoleonic times. The government of India in 2013 prohibited dolphins from being used in captivity for commercial exhibition[10]. The Indian Minister defending the decision explained that: “the Cetacean are, in general lines, very intelligent and sensitive. The scientists who have studied the behavior of dolphins have suggested that their unusually high intelligence, in comparison with other animals, means that they must be considered non-human persons

[9] Ley en Francia reconoce a los animales como "seres vivos y sensibles" (2015), from https//www.bbc.com/mundo/ultimas_noticias/2015/01/150129_ultnot_francia_ley_animales_seres_vivos_ng

[10] India Bans Captive Dolphin Shows as ‘Morally Unacceptable’, News Editor, 2013, from https://ens-newswire.com/2013/05/20/india-bans-captive-dolphin-shows-as-morally-unacceptable/.

and as such they must have specific rights. It is morally unacceptable to keep them in captivity for the purpose of entertainment."

In matters of animal protection, we can mention the legislation of countries such as Costa Rica, Hungary, Chile and Germany. These laws defend the rights of animals to be legally protected as part of the priorities of the government agendas.

12 Building the Juridical Scaffolding

In this globalized era where the State in its role as police and support of society is disappearing, the rule of law (which José Ortega y Gasset referred to as a "skin") has been usurped by the orthopedic State. I would add to this list of negative and harmful features, the factious and criminal State. Today we must include the state as a protagonist of unilateral actions against peace, global security, independence and the welfare of nations.

All of this takes place in a globalized world that excludes individuals and groups and diminishes social equity. The great evils of our time include the alarming and growing social inequality, the diverse forms of transnational organized crime such as the trafficking of persons or the abuse, consumption and trafficking of illegal drugs, and finally terrorism and the financing of terror. Each one of our world citizens faces difficult circumstances of personal, family and work-related problems, within a context of increasing social exclusion and marginality.

This era opens up a new and valid space of reflection for instilling a spirit of solidarity, love and charity, in the context of transformative action of the other in 'you' and 'we' that is essential for returning to a vigorous humanism. It is the same spirit that expands the conceptualization of humanitarian and respectful treatment of animals in nature and society. Pope Francis in his *Carta Enciclica* explains:

"A feeling of intimate union with other natural beings cannot be real if at the same time in one's heart there is no tenderness, compassion and preoccupation for human beings. There is an incoherence evident when someone fights against the trafficking of animals threatened with extinction, but remains completely indifferent towards the trafficking in persons, or feels no connection to the poor or tries to destroy another human being that is found to be disagreeable. This puts at risk the meaning of the struggle for the environment" (Holy Father Francis 2015, para. 91).

The juridical culture needs to be renewed. Not changed with instrumental aims of how best to legislate, but rather by improving the horizons of human dignity and harmonizing the life of all beings on the planet.

We can conclude that "man has a nature that places him beyond his nature", he is a "limited being that constantly tends to overcome his own limits; he is a being organized in time and in space and his intentional consciousness captures and transcends. He is a historical being. In history, man continually makes and remakes himself. Human history on the other hand is intertwined with the world. The realization of man is through the transformation of the world. Values must thus be reconsidered, society must be reformed each moment: the ceaseless search continues for the purpose of liberation, humanization, of greater being. The historical condition of man makes his education serve as a means for conquering the human form

presented to us, far beyond the present facts. The 'learning to be' in education will thus be a continual process of human liberation, that will lead to re-creation and world transformation" (Cabrerizo et al. 1991, p. 170). In this intelligence, both a juridical education and teaching in the field of law area are important.

"The social function of education attaches itself to this process. Education must not become an agent of conformity, it should not assist men in their insertion within already established boundaries, if he does this, and he betrays man and his continual process of liberation. The person is denied the right to forge his own future" (Cabrerizo Rios 1991, p. 155).

The challenge of the juridical dimension is important, but: "Roman law offers us a perfect example of an organ destined to adapt legislation: the figure of the Praetor (Ibidem, p. 156). The praetor is an important illustration of adaptable legislation as he had the central function in the creation of a new law. This new law was in contrast to the old, formal and solemn Roman law that did not address with justice the socio-economic and cultural conditions of those people emigrating to Rome: the clients, the foreigners, who could not repeat the sacramental formulas and as a result lost during transactions. The Romans found a solution in the role of the praetor as the creator of law, who articulated the lived-out norm, the practices and uses for each concrete, individual case" (Ibidem, p.158).

When one studies what a judge really does in a given moment in many countries today, it is evident that although it may not be desired, the protagonist of the sentence is nevertheless the judge. In some manner, when s/he sentences, s/he is doing the history of himself/herself and also of the person he is judging, although the judge may claim to be interpreting. When a person creates and decides upon an action, s/he has many alternatives open: s/he can follow the tradition of other historical periods and say that the sentence is based on one that thirty years ago established a fruitful relationship. In other words, a sentence that reveres a past based on judicial precedents even though the historical conditions may be diverse. That is the possibility – to forget the present historical reality and its pressures and to enter by adhering to a ruling – that negates the historical social responsibility of a judge as well as the possibility of innovation which the law opens up (David 2005, p. 37).

Nevertheless, "the jurisdictional creation does not imply that the legal order must be annihilated to give way to the arbitrary individual decision, but rather within the alternatives open to all judges, he can critique former sentences instead of adhering to them, innovating on values that only he could see and which other judges did not detect (Ibidem, p. 37).

The need to explore the limits of the law – and unveil the intelligence of the laws - is a question that has frequently surfaced in juridical history. If we examine the situation of children and adolescents, in a brief overview, we find that Roman law granted parents, the *pater familias* absolute and total powers over the life and death of their children. This included selling them, mutilating them, killing them and disinheriting them. But these rights did not end with the majority of age, but rather the death of the father or when he lost Roman citizenship: "Not even age or ranks, neither honors of the Consular Office, nor any triumph can exempt the most illustrious citizens of the bonds of filial subjection" (Bossard 1968, p. 494-495).

Ancient Greece offers us an ideal of "education for excellence" (*arête*). Nothing better for guiding the proper action than the example and the model, says Jaeger in his studies on education in classical Greece. In all the crimes the minor was granted an attenuated condition or prerogative with the exception of cases of homicide. Theft was not punished if the minor was caught in the act by surprise.

Attenuating the situation of children and adolescents as objects in Roman law, the medieval Christian perspective obtained the Justinian Code. This Code established that children are neither property of the parents that abandoned them nor property of those who found them (Solis Quiroga 2005, p. 47).

The Code also contained a prevision by which a father forced to sell his son, for reasons of extreme poverty, could recover the son later when his situation had changed. In the law of the XII Tables there was a distinction between pubers (*pubescents*) and impubers (*pre-pubescents*) - one could punish an impuber with a diminished sentence. In the beginning of the Roman Empire, the legal distinction was through infants, pubers and minors: infancy lasted until the child could speak well. The impuber was until about the age of procreation, nine and a half years of age, in the case of the woman, and until ten and a half in the case of the male puber. The children with ages close to infancy did not have penal responsibility; the lack of penal responsibility for those who were close to puberty depended on discernment. If one acted with discernment, a diminished penalty was applied. Discernment, was the existence of ideas formed on good and bad, the licit and illicit. The death penalty was possible from the age of 12 for women and 14 for men, although this sentence was never applied.

In Medieval Europe, the situation of children and adolescents was greatly marked by unprecedented severity. In England, children could be apprehended from the age of 9 onwards. Children of 6 to 14 years of age could be hanged for theft or less serious crimes, giving way to the probation of today.

Meanwhile, the crimes against children in England were punished with light sentences. For example, Anne Martin (alias Chapburry) was sentenced to two years in prison for taking out the eyes of children in order to beg with them, inspire pity (Bossard 1968, pp. 494-495) and improve her own economic condition.

In the colonial era of the United States, the harshness of the laws continued with respect to children. A law in New York ordered the death penalty for children who insulted their parents unless it was to avoid being killed or mutilated (David 1980, pp. 45-46).

In sixteenth century England, the lack of absolute penal responsibility was established for children until seven years of age. The origin of the Courts of Minors can be found in the 'Chancery Court' of Equity. These were established by Henry VII, since the State was the final parent of the child in need of protection.

The notion of adolescence in the West was an "invention" and a historically conditioned phenomenon. Starting from the eighteenth century, particularly in Europe, it acquires legitimacy through the widely read novel "Émile" of Jean Jacob Rousseau.

In the "The Laws of the Indies" (*Leyes de las Indias*, 1680) - the entire body of laws issued by the Spanish Crown for the American and Phillippine possessions - and following the

Castilian statutory code of the *Siete Partidas* ("Seven Divisions"*)* of Alfonso X of Castile, minors below the age of ten and a half were not deemed responsible for any reason and sense. Immunity was extended until 12 and 14 years of age, for crimes of insults and other wrongs.

According to the legal theorist Bruner (2003, p. 130), all of these approaches to law make up a "factory of stories"; the law is culture, narrative and through it we construct, reconstruct, in some sense, until we reinvent our yesterday and our tomorrow. Memory and imagination join in this process. Even when we create the possible worlds of fiction, we do not abandon the familiar, but rather we 'subjectivize', transforming both what could have been and what could be. The human mind, however the memory might be used or its system of registration may be refined, will never be able to completely and faithfully recover the past. But we can also not escape it. Memory and imagination are providers and consumers of the same merchandise.

13 Conclusion

Law is fascinating because it aspires to search in the past and in memory in order to determine if a present case is a model or not, a resource of what was prescribed in the past. But often in its evolving dialectic a culture is impeded from falling victim to the impossible mnemonic ideal. The system of 'separate-but-equal' of yesterday becomes a discourse of oppression today. And the past is also redefined, as in the *Brown vs. Board of Education* case where the judges cited with approval a decision of the British Royal Court of 1772 in the *Somerset vs. Stewart* case. This case involved an African American slave named James Somerset who was taken by force to England and escaped. After being captured, imprisoned and deported to the United States on a ship to Jamaica, his slave owner demanded his return to slavery. Nevertheless, the ruling of common law in the case of Somerset concluded that slavery was not supported in England. Somerset could not be returned to slavery on English soil because in this country there were no 'municipal statutes' that expressly authorize slavery: the natural condition of this man was freedom. One can only admire the Supreme Court Judge Warren, in the historical opinion pronounced on the *Brown vs. Board of Education* case. I particularly admire the fantasy and intuition upon appraising the affinity of this case with the case of "separate but equal" schools that violated the clause of equal protection of the Constitution of the United States, a document drawn up 17 years after Lord Mansfield, the Lord High Chancellor, had returned to liberate Somerset. Narrative fiction creates possible worlds, but it is extrapolated from the world we know, no matter how much higher one can extend one world over the other. The art of the possible is a dangerous art. It must take into account life as we know it and also, alienate us sufficiently so as to tempt us with possible alternatives that transcend. It is something comforting, yet a challenge. Ultimately, it has the power to modify our habits upon conceiving what is real, what is canonic. It can even undermine the decisions of the law regarding what constitutes a canonic reality. To illustrate, the novel "*The Grapes of Wrath*" of John Steinbeck modified the legitimacy of a neglected, semi-deserted region of the United States, while "*Uncle Tom's Cabin*" and the works of Harriet Beecher Stowe incited public indignation against racism and slavery in North America. The novel of Steinbeck and those of Harriet Beecher Stowe, promoted debate as to whether life had to be in a certain given way. And here we locate the beginnings of subversion in a social setting (Bruner 2003).

The challenge of the law explored in this article is complex and multi-faceted. Many suppositions in the social sciences exist in relation to animal behavior, some of these are correct but others are not. This situation will not change while research on human behavior continues to be disconnected from research on other animals. Those who like so much to explore the natural world to extract examples when these appear convenient, should nevertheless understand that there are no simple lessons. Just as our species is both noble and cruel, selfish and generous, a slave or master of instincts, the world of non-human animals presents the same contradictions. Academic researchers will continue comparing and contrasting the behavior of non-human animals and that of humans. But let us hope that they do this not so much with the intention of supporting preconceived notions, but instead to discover a reality of nature that is more complex, diverse and multi-layered (De Waal 2002).

I would like to conclude this article with the words of a renowned scientist and friend, the late Juan Cuatrecasas, who in the preface of one of his major works (Cuatrecasas 1965, p. 50), quotes P. Teilhard de Chardin:

"Man had finally understood the essential message murmured by the ruins, fossils, the ashes: nothing is worth being found if not that which does not exist. The only discovery worth our effort is the one of constructing our future."

References[11]

A/CONF.48/14/Rev.1 Report of the United Nations Conference on the Human Environment (Stockholm, 1972).

A/RES/49/114, International Day for the Preservation of the Ozone Layer, 19 December 1994.

A/RES/35/71 Report of the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 15 December 1980.

A/RES/70/1 Transforming our world: the 2030 Agenda for Sustainable Development 25 September 2015.

Ak'Abal, H. (2001). *Aqajtzij Palabramiel*, Chalsamaj Ed.: Guatemala.

Baca Garcia, J. (1939). *Introducción al filosofar* Tucumán, Argentine: Universidad Nacional de Tucumán.

Bible, Genesis 9, 8-15.

Bossard, J. S. and Stocher Boll, E. (1968). *The Sociology of Child Development.* New York: Harper Row.

Bruner, J. (2003). *La Fábrica de historias. Derecho, literatura, vida.*: Buenos Aires, Argentine: Fondo de Cultura Económica.

[11] All United Nations parliamentary documentation starting with "A" symbol retrieved from the United Nations website http://www.un.org. Accessed 6 January 2020.

Cabrerizo, R., Baroja, A. Caro, J. &; and Beristáin, A. (eds.)(1991). Desde Ignacio de Loyola a Una Educación Liberadora. Ignacio de Loyola, magister artium en París, 1528-1535: libro homenaje de las Unversidades del País Vasco y de la Sorbonne a Ignacio de Loyola en el V centenario de su nacimiento, https://ecommons.luc.edu/ignatianpedagogy/.

Cavagna, C. (2001). *Zen e Cristianesimo, Attraverso un confronto* fra il Maestro Dogan a Francesco d' Assisi. Tokyo: Universita Kamazawa.

Conde, F. X. (1953). *Introducción a la antropología de Xavier Zubiri, Homenaje a Xavier Zubirí*, Revista Alcalá, https://bit.ly/2T7ijWH

Cockroft, S. (2019). *Orangutan who was granted human rights in landmark legal case flies to US for more 'dignified' life*. The Evening Standard, 28 September 2019, from https://bit.ly/2wW5lTe

Convention on Biological Diversity (1760 UNTS 79).

Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal (1673 UNTS 126).

Convention on International Trade in Endangered Species of Wild Fauna and Flora (993 UNTS 243).

Convention of Migratory Species of Wild Animals (1651 UNTS 333).

Convention on Wetlands of International Importance (996 UNTS 245).

Cuatrecasas, J. (1965). *El hombre, animal óptico*. Buenos Aires, Argentine: Eudeba.

Dary, C.F. (1997). *El derecho internacional humanitario y el orden jurídico maya*. Guatemala: El Comité Internacional de la Cruz Roja: Facultad Latinoamericana de Ciencias Sociales.

David, P.R. (1985). *Crime and Criminal Policy*. Papers in Honor of Manuel Lopez Rey y Arrojo. Rome UNSDRI: Franco Angeli.

David, P. R. (1970). *Conducta, integrativismo y sociología del Derecho*. Buenos Aires, Argentine: Zavalia.

David, P. R. (1979). *Estructura Social y Criminología*. Venezuela: Universidad de Zulia. Instituto de Criminología.

David, Pedro R. (1980). *Juvenile Criminal Sociology*, Depalma. Buenos Aires, Argentine.

David, P.R. (2005). *Criminología y Sociedad*. D.F. Mexico: Instituto Nacional de Ciencias Penales.

De Azcarate, P. (1874). *Obras de Aristóteles, puestas en lengua castellana*. Biblioteca Filosófica. Madrid.

De Waal, F. (2002). *El simio y el aprendiz de sushi*. Reflexiones de un primatólogo sobre la cultura. Madrid, Spain: Paidós.

De Waal, F. (20 Paidós: 07). *Primates y Filósofos.* La evolución de la moral del simio al hombre. Madrid, Spain: Paidós.

De Waal, F. (2013). *The Bonobo and the Atheist: in search of Humanism among the Primates*. New York and London: Norton.

Defensoría Indígena Wajxaqib'noj (2003). *A global vision of the Mayan juridical system.* Guatemala.

Ferrater, M. J. (1985). *Fundamentos de Filosofía.* Alianza Universidad: Madrid, Spain.

Friedrich, C. J., (1964). *Filosofía del Derecho.* D.F. México: Fondo de Cultura Económica.

Fromm, E. (1981). *Y seréis como dioses*, Madid, Spain: Paidós.

Hamilton, A. T. (1964). *Pueblo Gods and Myths.* Norman, OK.: University of Oklahoma Press.

Holy Father Francis (2015). *Carta Enciclica Laudato Sí*. On the care of the common house. Argentine Episcopal Conference. Buenos Aires, Argentina: Office of the Book.

IUCN (2015). Regional Action Plan for the Conservation of Western Lowland Gorillas and Central Chimpanzees 2015-2025.

Jaspers, K. (1953). Origen y meta de la historia. *Revista de Occidente 3*, 136-148. Madrid, Spain.

Legaz y Lacambra, L. (1976). *Consideraciones sobre la dignidad de la persona y la vida humana*. *Annals of the Royal Academy of Moral and Political Sciences 53*, 17-22.

Legaz y Lacambra, L. (1951). *Filosofía del Derecho*. Barcelona, Spain: ed. Bosch.

Mantilla P. (1947). *Axiología o teoría de los valores*. D.F. México: Casa Unidad de Publicaciones. Grafos.

Petit, E. (1913). *Traite Élémaintaire de Droit Romain.* Paris, France: Arthur Rousseau Ed.

Pro, D. F. (1971). *Temas y Motivos del Pensamiento Griego*. Buenos Aires, Argentine: Amancay.

Przywara, E. (1984). *San Agustín. Perfil humano y religioso*. Madrid, Spain: Ed. Cristiandad.

Redo, S. (2012). *Blue Criminology. The Power of United Nations Ideas to Counter Crime Globally.* Helsinki: European Institute for Crime Prevention and Control.

Rosen, D. H. (1996). *The Tao of Jung*. Buenos Aires, Argentine: Paidós.

Kapleau, P. (2001). *Awakening to Zen: The Teachings of Roshi Philip Kapleau.* Boston*:* Shambala.

Rundle, C.R.T. (1960). *Myth and Symbol in Ancient Egypt*. Great Britain: Thames and Hudson.

Sacks, O. (2012). *Hallucinations*. Toronto, New York: Alfred A. Knopf.

Saucedo, G. H., David, P. (2001). *Política Criminal, derechos humanos y sistemas jurídicos en el siglo XXI.* Argentine: De Palma.

Solis Quiroga, H. (2005). *Justicia de menores*. Mexico: Instituto Nacional de Ciencias Penales.

St. Francisco de Assisi (2012). So con certezza: il mio cuore sono i monti/i fiumi e la tierra; Sono il sole, la luna e le stelle", en Francis of Assisi, *The Little Flowers* (Fioretti), London.

Wise, St. (2015). *Conversations*, texto Loreley Gaffoglio, Buenos Aires, Argentine: La Nación.

United Nations Convention against Transnational Organized Crime (2225 UNTS 209)

Zubirí, X. (1974). *Realitas*, Seminario, Sociedad de Estudios y Publicaciones: Madrid, Spain.

Zubirí, X. (1984). *El Hombre y Dios*. Alianza Editorial:Madrid: Spain.